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TC

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/360,262 07/26/99 REDDING

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MARTIN SAVITZKY ESQ
SYNNESTVEDT & LECHNER
1101 MARKET STREET 26TH FLOOR
PHILADELPHIA PA 19107

EXAMINER

BECKER, D

ART UNIT

PAPER NUMBER

1761

DATE MAILED:

01/26/01

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/360,262

Applicant(s)

REDDING ET AL.

Examiner

Drew E Becker

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2000.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some * c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
 2. ☐ received in Application No. (Series Code / Serial Number) _____.
 3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

- 14) ☒ Notice of References Cited (PTO-892)
- 15) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 16) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 17) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 18) ☐ Notice of Informal Patent Application (PTO-152)
- 19) ☐ Other: _____

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DETAILED ACTION

Claim Objections

1. Claim 13 is objected to because of the following informalities: line 5 recites "— having said resistant properties—.". Appropriate correction is required.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-9 and 14-15 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 1 recites "fiber material derived from natural grains and wood products". The citation of the specification relied upon by the applicants for enablement does not disclose "wood product", only "natural grains".

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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2. Claims 1, 5, and 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Allen [Pat. No. 3,389,997].

Allen teaches a method for modifying the properties of particulate dietary fiber by dispersing the fiber in a liquid medium (column 2, lines 4-15), the use of peanut meal, tree leaves, and various grains as the source of fiber (column 3, line 40), applying a shock wave or pressure gradient which travels through the liquid medium (column 2, line 12), recovering the modified fiber (column 2, line 61), the liquid medium containing 16.7% dispersed fiber (column 2, line 72), and mechanical separation (column 2, line 62).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-4 and 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen.

Allen teaches the above mentioned concepts. It would have been obvious to one of ordinary skill in the art to dry the product of Allen since removing excess moisture would make the product easier to transport and ship due to its decreased weight and greater

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resistance to bacterial spoilage. It would have been obvious to one of ordinary skill in the art to conduct the treatment of Allen at 25 degrees C since this is approximately room temperature.

5. Claims 2 and 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen as applied to claim 1 above, and further in view of Redding Jr [Pat. No. 5,455,342].

Allen teaches the above mentioned concepts. Allen does not teach the use of a piston driven by 60-90 psi. Redding Jr teaches a method of applying a pressure pulse to dispersed particulate material by means of a piston driven by 60-90 psi (column 8, line 13). It would have been obvious to one of ordinary skill in the art to incorporate the piston means of Redding Jr into the invention of Allen since both are directed to the application of pressure pulses to dispersed particulate matter and since Redding Jr teach that this provides benefits such as altered disintegration and solubility properties (column 7, line 4). Although Allen does not recite a particular process time, it would have been obvious to one of ordinary skill in the art to process the particulate matter of Allen for 0.1-0.2 seconds since this would have been done during the course of ordinary experimentation and optimization.

Response to Arguments

6. Applicant's arguments filed October 30, 2000 have been fully considered but they are not persuasive.

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Applicants argue that Allen does not teach an abrupt pressure change, but rather an electric shock. Applicants' attention is drawn to column 2, line 12 of Allen which recites "a shock wave or pressure gradient that travels outwardly".

Applicants also argue that Allen does not teach particulate dietary fiber, only whole plant materials. Applicants' attention is drawn to column 3, line 40 of Allen which recites a "peanut meal" which qualifies as a particulate.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hutton [Pat. No. 3,212,756] teaches a sound generator including an air powered piston and Algeo [Pat. No. 3,667,961] teaches a method of pressure processing particulate feedstuffs.

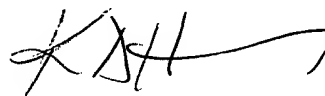
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 703-305-0300. The examiner can normally be reached on Monday-Thursday 7am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gabrielle Brouillette can be reached on 703-308-0756. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3602 for regular communications and 703-305-3599 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1495.

Drew Becker
January 8, 2001

A handwritten signature in black ink, appearing to read 'KH' followed by a stylized flourish.

KEITH HENDRICKS
PRIMARY EXAMINER